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CORPORATION and Counterdefendants GOLDEN
MEDIA GROUP, INC. and TIGA
ENTERTAINMENT COMPANY, LTD.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

UM CORPORATION, a Japanese
corporation,

Plaintiff,

v.

TSUBURAYA PRODUCTIONS CO.,
LTD., a Japanese corporation,

Defendant.

Case No. 2:15-cv-03764-AB (AJWx)

**DECLARATION OF JEFFREY D.
WEXLER IN SUPPORT OF
PLAINTIFF AND
COUNTERDEFENDANT UM
CORPORATION'S OPPOSITION
TO TSUBURAYA PRODUCTIONS
CO., LTD.'S MOTION FOR
SUMMARY JUDGMENT**

Date: July 24, 2017
Time: 10:00 a.m.
Location: Courtroom 7B

AND RELATED CROSS-CLAIMS

Motion Hrng. Cutoff: July 24, 2017
Pretrial Conf.: October 16, 2017
Trial: November 7, 2017

DECLARATION OF JEFFREY D. WEXLER

I, Jeffrey D. Wexler, declare:

1. I am an attorney licensed to practice law in the State of California and am a member of the bar of this Court. I am senior counsel at the law firm of Pillsbury Winthrop Shaw Pittman LLP (“Pillsbury”), attorneys of record for plaintiff and counterdefendant UM Corporation (“UMC”) and counterdefendants Golden Media Group, Inc. (“GMG”) and TIGA Entertainment Company, Ltd. (“TIGA”) in this action. Unless indicated otherwise, I have personal knowledge of the following facts, and if called as a witness I could and would testify competently to those facts.

2. Attached hereto as Exhibit A is a color copy of the License Granting Agreement dated March 4, 1976 between “Tsuburaya Prod. and Enterprise Co., Ltd.” and Sompote Saengduenchai (the “1976 Agreement”). This version of the 1976 Agreement was produced by defendant and counterclaimant Tsuburaya Productions Co., Ltd. (“TPC”) as Doc. No. TP00029497 (with the attached Japanese translation of the 1976 Agreement produced by TPC as Doc. Nos. TP00027696-97) and was marked as Exhibit 4A at the deposition of Shinichi Ooka as an individual and as TPC’s Rule 30(b)(6) designee taken by UMC on January 10, 2017. (Exhibit A to the Declaration of Daniel C. Posner [Dkt. 138-1] is a less legible, black-and-white version of the 1976 Agreement.)

3. Attached hereto as Exhibit B is a true and correct copy of an October 5, 1973 Agreement between Thai Burin Film Co., Ltd. and TPC. This document was produced by TPC as Doc. Nos. TP00045538-40 (in English, with a Japanese translation) and was marked as Exhibit 129 at the deposition of Shinichi Ooka as an individual and as TPC’s Rule 30(b)(6) designee taken by UMC on January 10, 2017.

4. Attached hereto collectively as Exhibit C are true and correct copies of TPC financial statements, in Japanese, for 1974-1978. These documents were

1 produced by TPC as Doc. Nos. TP00038658, TP00038632, TP00038659,
2 TP00038633, TP00038660, TP00038634, TP00038661, TP00038635,
3 TP00038662, and TP00038636, and were marked collectively as Exhibit 140 at the
4 deposition of Shinichi Ooka as an individual and as TPC's Rule 30(b)(6) designee
5 taken by UMC on January 10, 2017.

6 5. Attached hereto as Exhibit D is a true and correct copy of a December
7 16, 1974 Certification from Tokyo Legal Affairs Bureau of the Hanko seal of
8 Tsuburaya Enterprises Co., Ltd., in Japanese and in English translation. This
9 document was produced by TPC as Doc. Nos. UMC0009167-69 and was marked
10 as Exhibit 138 at the deposition of Shinichi Ooka as an individual and as TPC's
11 Rule 30(b)(6) designee taken by UMC on January 10, 2017.

12 6. Attached hereto as Exhibit E is a true and correct copy of undated
13 Tsuburaya Enterprises letterhead stamped with Tsuburaya Enterprises' Hanko seal.
14 This document was produced by TPC as Doc. No. TPC00047478 and was marked
15 as Exhibit 375 at the deposition of TPC's forensic documents expert Kathleen
16 Nicolaides, taken by UMC on May 17, 2017.

17 7. Attached hereto as Exhibit F is a document that I prepared by cutting
18 and pasting into a Word document (a) a comparison, taken from Figure 8 of Ms.
19 Nicolaides' rebuttal expert report, between the Hanko seal on the 1976 Agreement
20 (identified as Q01) and the Hanko seal on the blank letterhead (Exhibit E hereto)
21 (identified as KS05), and (b) a comparison between a better color copy of the
22 Hanko seal on the 1976 Agreement (identified as TP00001195) and the copy of the
23 Hanko seal on the blank letterhead as it appeared in Figure 8 of Ms. Nicolaides'
24 rebuttal expert report. This document was marked as Exhibit 374 at Ms.
25 Nicolaides' May 17, 2017 deposition.

26 8. Attached hereto as Exhibit G is a document that I prepared by cutting
27 and pasting the image of the Hanko seal on a color copy of the 1976 Agreement
28 (identified as TP00029497) and comparing it with the images of the Hanko seals

1 from the December 16, 1974 Certification (Exhibit D hereto) as they appeared in
2 Figure 9 of Ms. Nicolaides' rebuttal expert report. This document was marked as
3 Exhibit 376 at Ms. Nicolaides' May 17, 2017 deposition.

4 9. Attached hereto as Exhibit H is a true and correct copy of an August
5 16, 1976 Agreement between Tsuburaya Enterprise Co., Ltd. and Commercial
6 Television Ltd. This document was produced by TPC as Doc. Nos. TP00029744-
7 45 and was marked as Exhibit 290 at the deposition of UMC's forensic document
8 expert Michael Wakshull.

9 10. Attached hereto as Exhibit I is a true and correct copy of a photograph
10 of a book page with a photograph of Eiji Tsuburaya, King Kong, Sompote
11 Saengduenchai, and Godzilla bearing a Japanese autograph and the autograph of
12 "Noboru Tsuburaya." This document was produced by UMC as Doc. Nos.
13 UMC0019484-85 and was marked as Exhibit 312 at the deposition of TPC's
14 handwriting expert Lloyd Cunningham.

15 11. Attached hereto as Exhibit J is a true and correct copy of a
16 photograph of a book page with a photograph of an Ultraman character bearing the
17 autographs "Noboru Tsuburaya" and "N. Tsuburaya." This document was
18 produced by UMC as Doc. No. UMC0019573 and was marked as Exhibit 313 at
19 the deposition of TPC's handwriting expert Lloyd Cunningham.

20 12. Attached hereto as Exhibit K is a true and correct copy of an April 19,
21 1985 Certificate of Recordation with Copyright Office of a November 7, 1974
22 Memorandum Distribution Agreement between Cinema Shares International
23 Television Ltd. and Spectacular Trading Company HK Ltd. for distribution of the
24 "motion picture entitled 'Space Invaders: 1999 (a/k/a 'Space Warriors 2000')'" in
25 the United States and English-speaking Canada, as certified by the Copyright
26 Office on February 6, 2017. Pillsbury engaged an attorney service to get this
27 certified copy of the recorded document. This document was produced by UMC as
28 Doc. Nos. UMC0025386-422.

1 13. Attached hereto as Exhibit L are true and correct copies of excerpts, in
2 Japanese and a certified English translation, from a book by Noboru Tsuburaya
3 titled The Story of Ultraman, published in 1993. This document was produced by
4 UMC in Japanese as Doc. Nos. UMC0009216-21, and was marked in Japanese and
5 English translation as Exhibit 139 at the deposition of Shinichi Ooka as an
6 individual and as TPC's Rule 30(b)(6) designee taken by UMC on January 10,
7 2017.

8 14. Attached hereto as Exhibit M is a true and correct copy of a July 23,
9 1996 Letter from Kazuo Tsuburaya, then-President of TPC, to Sompote
10 Saengduenchai. This document was produced by TPC as Doc. No. TP00029548,
11 and was marked as Exhibit 144 at the deposition of Shinichi Ooka as an individual
12 and as TPC's Rule 30(b)(6) designee taken by UMC on January 10, 2017. The
13 document was authenticated at the January 17, 2017 deposition of Kazuo
14 Tsuburaya (Exhibit U hereto) at 56:8 – 58:5.

15 15. Attached hereto as Exhibit N is a true and correct copy of a June 15,
16 2015 letter sent by Taisuke Kimoto of Pillsbury to Sompote Saengduenchai. This
17 document was produced by UMC as Doc. Nos. UMC0017883-84, and is
18 authenticated as Exhibit 58 at the December 13, 2016 deposition of Perasit
19 Saengduenchai (Exhibit S hereto) at 467:9-23.

20 16. Attached hereto collectively as Exhibit O are screenshots taken by
21 Pillsbury associate Tim Rawson from the movie Space Warriors 2000 showing the
22 characters Ultraman Leo, Astra, Ultraman 80, and Yullian. The screenshots
23 included in Exhibit O were marked separately as Exhibits 219-223 at the
24 deposition of TPC employee Akitaka Hara taken by UMC on January 18, 2017.

25 17. Attached hereto as Exhibit P is a true and correct copy of a certified
26 English translation of excerpts from testimony given by TPC employee Kiyotaka
27 ("Jimmy") Ugawa on September 21, 1998 in a lawsuit in Thailand. This document
28 was produced by TPC as Doc. Nos. TP00049583-95 (the Thai version of the

1 testimony, not included in Exhibit P, was produced by TPC as Doc. Nos.
2 TP00049596-607). This document was marked as Exhibit 303 at the deposition of
3 TPC's handwriting expert Lloyd Cunningham.

4 18. Attached hereto as Exhibit Q is a true and correct copy of a certified
5 English translation of excerpts from testimony given by Sompote Saengduenchai at
6 the trial of a Thai lawsuit on September 22, 1999, September 23, 1999, September
7 30, 1999, October 1, 1999, October 4, 1999, October 5, 1999, November 1, 1999,
8 and November 12, 1999.

9 19. Attached hereto as Exhibit R is a true and correct copy of excerpts
10 from the deposition of Roy McAree as GMG's Rule 30(b)(6) designee, taken by
11 TPC on November 15, 2016.

12 20. Attached hereto as Exhibit S is a true and correct copy of excerpts
13 from the deposition of Perasit Saengduenchai, as an individual and as UMC's Rule
14 30(b)(6) designee, taken by TPC on December 12, 2016 and December 13, 2016.

15 21. Attached hereto as Exhibit T is a true and correct copy of excerpts
16 from the deposition of former TPC President Shinichi Ooka, as an individual and
17 as TPC's Rule 30(b)(6) designee, taken by UMC on January 10, 2017.

18 22. Attached hereto as Exhibit U is a true and correct copy of excerpts
19 from the deposition of former TPC President Kazuo Tsuburaya, taken by UMC on
20 January 17, 2017.

21 23. Attached hereto as Exhibit V is a true and correct copy of excerpts
22 from the deposition of TPC employee Akitaka Hara, taken by UMC on January 18,
23 2017.

24 24. Attached hereto as Exhibit W is a true and correct copy of excerpts
25 from the deposition of TPC's handwriting expert Lloyd W. Cunningham, taken by
26 UMC on April 28, 2017.

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26. Attached hereto as Exhibit Y is a true and correct copy of Attachment
B to Ms. Nicolaides' April 24, 2017 rebuttal expert report, headed Best Evidence
Listing – Sorted by Date.

28. Attached hereto as Exhibit AA is a true and correct copy of excerpts from Plaintiff and Counterdefendant UM Corporation's Response to Defendant and Counterclaimant Tsuburaya Productions Co., Ltd.'s Fourth Set of Interrogatories to Plaintiff and Counterdefendant UM Corporation, dated February 24, 2017.

17 Executed this 23rd day of June, 2017, at Los Angeles, California.